

This amendment takes a significant step toward making a difference in the lives of women and children around the world.

Once again I commend my colleagues for introducing this amendment and providing assistance to victims of trafficking and urge a Yes vote on the Sanders/Smith/Slaughter/Maloney amendment.

ALL THE NEWS THAT'S FIT TO
LEAK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 2000

Mr. FRANK of Massachusetts. Mr. Speaker, from time to time I insert articles into the CONGRESSIONAL RECORD which seem to make important points that my colleagues should read. Usually I accompany them with some explanation of why I think they are important. In the case of Michael Kinsley's superb article on Kenneth Starr's press secretary, the New York Times, and the ethics of leaking, no such commentary is necessary. I submit the article here.

[From the Washington Post, July 11, 2000]

I DID NOT HAVE LEAKS WITH THAT
NEWSPAPER

IT'S NOT ABOUT SEX

(By Michael Kinsley)

No, no, it really isn't about sex this time. No one has even suggested that Charles Bakaly, former deputy to independent counsel Kenneth Starr, had sexual relations with New York Times reporter Don Van Natta. The accusation is that Bakaly leaked a story to Van Natta back in January 1999. Other than that small difference, though, the parallels are pretty tasty. Bakaly was—according to informed sources—a promiscuous leaker who just got caught this time. As with Starr's main target, there is speculation whether he was hoodwinking the boss or had an "understanding." And Bakaly is in legal trouble not for the initial sin but for lying about it in the subsequent investigation. His trial starts Thursday.

Oddly, Bakaly's defenders seem unable on this occasion to keep the original behavior and the subsequent denials distinct in their minds. Because they feel there was nothing wrong with the leaking (and indeed a circuit court panel held as much last September), they feel it is unfair to punish Bakaly for the attempted coverup. The purity of obstruction of justice—the principle that it is wrong to give false answers in the criminal justice system, even to questions that never should have been asked—no longer beguiles them. Don't try to tell them it's not about leaks, it's about lying. They don't buy it. This time.

The New York Times, at least, is consistent. It opposed the impeachment of President Clinton and it opposes the prosecution of Charles Bakaly (in which the Times itself plays the role of Monica). "Ill-considered," thundered the Times editorial page July 8. "A regrettable denouement," it roared. Actually, that's more like a meow than a roar, isn't it? But then the whole world of leaks puts news media in a comically difficult position.

A friend of mine defends dishonest adulterous politicians on the grounds that (a)

adultery should not be a public issue; (b) lying is inherent to adultery; therefore (c) lying about adultery should not be a public issue. Something similar might be said in defense of dishonest talkative public officials; (a) Leaking serves the public interest; (b) lying is essential to leaking, and therefore (c) lying about leaking serves the public interest. This might be said but never is said because it is too embarrassing. How can professional truth-tellers defend lying? So instead we deny step (b): that leaking and lying are inseparable.

The New York Times story that led to the Bakaly prosecution reported that "several associates of Mr. Starr" had said that Starr believed he had constitutional authority to indict a sitting president. As the story ran on, these unnamed associates chatted away about sundry implications of this factoid. But not Charles Bakaly! "Charles G. Bakaly 3d, the spokesman for Mr. Starr, declined to discuss the matter. 'We will not discuss the plans of this office or the plans of the grand jury in any way, shape, or form,' he said." Thus the Times not only allowed Bakaly to tell what the reporter knew to be a lie in its press, but it told a knowing lie itself. Bakaly did not "decline to discuss the matter."

Unless Bakaly actually wasn't the leaker, as he still maintains. This is pretty unlikely, unless Starr—who defended him for a while, then fired him after a supposed investigation—is a total dastard. But suppose Bakaly actually did not have leakal relations with that newspaper. In that case the Times has been reporting on the criminal prosecution of a man it knows to be innocent, while failing to report that rather pertinent bit of information.

The media also tend to be disingenuous, at least, about the general function of leaks. In this case, whether or not Bakaly was the leaker, and whether or not Starr was in on the plot, it was a strategic leak, intended to unnerve the Clinton forces during the impeachment proceedings. Most leaks are like this: not courageous acts of dissent from the organization but part of the organization's game plan.

And thus leaks often suck the media into a conspiracy of hype. Was the fact that Starr thought a sitting president could be indicted really so new, so important, so surprising? (He never actually tried it, so intentionally or not, the leak turned out to be misleading.) In what the Times may have regarded as a somewhat backhanded defense of its scoop. The Washington Post editorialized that "this information was not really even news at all." The Times itself took the opposite approach, declaring that the story "was obviously of great national moment." Too small to matter? Too big to stop? Each is a plausible defense, but both can't be true.

The point here is not to pick on the Times. (Is that true? Sources inside my head, who spoke on the condition they not be identified, say it's hard to tell.) Let's say the point is that even the New York Times has leak fever. Its editorial last week, just after declaring that the Starr story was "of great national moment," suddenly pooh-poohed this historic scoop as merely "discussion Mr. Starr and his aides may have had with reporters about [their] deliberations." May have had? The story was what anonymous Starr aides had told the Times about their deliberations! In its pious agnosticism regarding matters it must know the truth about, the Times seems to be raising the possibility that it made the whole thing up.

Now that I wouldn't believe. Even if it said so in the New York Times.

FEDERAL LAND EXCHANGE PROGRAMS NEED TO BE HALTED AND FIXED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 2000

Mr. GEORGE MILLER of California. Mr. Speaker, a General Accounting Office report I requested on land exchanges confirms many of the concerns I have expressed over the past several years: too many land swaps by the Bureau of Land Management and the Forest Service shortchange taxpayers and are not in the public interest.

The GAO report released on July 12, entitled "Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest" (GAO/RCED-00-73), highlights numerous failings of the exchange program. GAO found that the agencies have wasted hundreds of millions of dollars swapping valuable public land for private land of questionable value, and the report concludes that the BLM may even be breaking the law.

According to GAO, the agencies "did not ensure that the land being exchanged was appropriately valued or that exchanges served the public interest or met certain other exchange requirements." GAO went on to state that "the exchanges presented in our report demonstrate serious, substantive, and continuing problems with the agencies' land exchange programs." In addition, GAO found that the BLM has—under the umbrella of its land exchange authority—illegally sold federal land, deposited the proceeds into interest-bearing accounts, and used these funds to acquire nonfederal land (or arranged with other to do so). These unauthorized transactions undermine congressional budget authority, GAO said.

The GAO recommended that Congress consider eliminating the programs altogether.

I believe that the appropriate step is to halt the programs and then fix them. In light of the GAO's report, I have asked the Forest Service and the Bureau of Land Management to immediately suspend their programs while they evaluate the best method to achieve their laudable goals.

Mr. Speaker, I would encourage my colleagues to review the findings of the GAO report and to consider my call for a moratorium on land exchanges while the programs are being fixed. I am submitting for your review as well the letters I sent to the federal agencies yesterday and several newspaper articles on the GAO report.

Hon. BRUCE BABBITT,
Secretary of Interior,
Washington DC.

DEAR SECRETARY BABBITT: I am writing to request that you direct the Bureau of Land Management to enact a moratorium on land exchanges until the agency demonstrates that it can ensure all exchanges are in the public interest and of equal value, as required by law. In addition, the Bureau should immediately identify and cease all activities carried out under the land exchange authority umbrella that are not authorized by law. The agency should also thoroughly account for the funds used in these transactions.

I am extremely concerned by the General Accounting Office's findings in its June, 2000 report entitled "Land Exchanges Need to Reflect Appropriate Value and Service the Public Interest" (GAO/RCED-00-73). GAO documented numerous instances in which valuable federal land was traded for private land worth significantly less. In addition, the report described exchanges in which the public interest being served was unclear.

According to GAO, the Bureau "did not ensure that the land being exchanged was appropriately valued or that exchanges served the public interest or met certain other exchange requirements." GAO went on to state that "the exchanges presented in our report demonstrate serious, substantive, and continuing problems with the agencies' land exchange programs." In addition, GAO found that the Bureau has—under the umbrella of its land exchange authority—illegally sold federal land, deposited the proceeds into interest-bearing accounts, and used these funds to acquire nonfederal land (or arranged with others to do so).

I am also concerned by the Bureau's response to these findings; it appears that the Bureau would rather deny the problems than solve them. GAO reported that the Bureau is attempting to make superficial changes that do not adequately address these illegal land transactions. For example, according to GAO, the Bureau is renaming the disputed land transactions, calling them "disposals" rather than "sales" and "acquisitions" rather than "purchases." In addition, the Bureau is switching from using cash in these transactions, to financial instruments, like bonds. According to GAO, the transactions are still not authorized by law and the Bureau's arguments to the contrary are "circular and unconvincing."

Many of the problems highlighted by GAO are not new and have been reported on by the Inspector General and in numerous news accounts. While I am supportive of the Bureau's ongoing efforts to address these concerns, such as creating a national review team, these changes have not yet produced sufficient results.

The Bureau's moratorium should suspend all pending exchanges for which a decision has not yet been signed and halt the initiation of new exchanges. Before the Bureau considers lifting the moratorium, the Inspector General should complete a comprehensive review of procedures and pending exchanges and certify that the agency has sufficient control of the program and can ensure that all exchanges are of equal value and in the public interest. The IG review should include a close look at exchanges involving third-party facilitators, which may be more likely than other exchanges to lead to inequitable results.

As the Bureau works to regain control over its exchange program, it may want to consider ways to improve appraisals, better incorporate the public in its process, reduce the influence of third parties and project proponents. Some specific reforms the Bureau should evaluate include: the automatic release of all appraisal information to the public upon completion of review by the agency appraiser limits on the ability of proponents to select appraisers; application of the NEPA and NHPA requirements in *Muckleshoot v. Forest Service* to all exchanges; incorporation of the agency's priorities for acquisition in the exchange process; release of a schedule of all proposed land exchanges; inclusion of maps with the legal description of an exchange; reforms of the appeal process; greater notification of adjacent

landowners; and the compilation of better system-wide financial and environmental information on all exchanges.

Thank you for your consideration. I look forward to your prompt response.

Sincerely,

GEORGE MILLER,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 2000.

Hon. DAN GLICKMAN,
Secretary of Agriculture,
Washington, DC.

DEAR SECRETARY GLICKMAN: I am writing to request that you direct the Forest Service to enact a moratorium on land exchanges until the agency demonstrates that it can ensure all exchanges are in the public interest and of equal value, as required by law.

I am extremely concerned by the General Accounting Office's findings in its June, 2000 report entitled "Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest" (GAO/RCED-00-73). GAO documented numerous instances in which valuable federal land was traded for private land worth significantly less. In addition, the report described exchanges in which the public interest being served was unclear.

According to the GAO, the Service "did not ensure that the land being exchanged was appropriately valued or that exchanges served the public interest or met certain other exchange requirements." GAO went on to state that "the exchanges presented in our report demonstrate serious, substantive, and continuing problems with the agencies' land exchange programs."

Many of the problems highlighted by GAO are not new and have been reported on by the Inspector General and in numerous news accounts. I am supportive of the Service's ongoing efforts to address these concerns, such as creating a national review team and the new proposal that could lead to public release of appraisal documents. However these changes have not yet produced sufficient results. GAO reported that, "while most regions have made progress in strengthening their land exchange programs, none have clearly demonstrated that they fully and consistently comply with national standards reflecting applicable laws, regulations, and policies in developing and processing land exchanges."

The Service's moratorium should suspend all pending exchanges for which a decision has not yet been signed and halt the initiation of new exchanges. Before the Service considers lifting the moratorium, the Inspector General should complete a comprehensive review of procedures and pending exchanges and certify that the agency has sufficient control of the program and can ensure that all exchanges are of equal value and in the public interest. The IG review should include a close look at exchanges involving third-party facilitators, which may be more likely than other exchanges to lead to inequitable results.

I am aware that the Service previously declared a 30 day moratorium on third-party exchanges, and believe the action, and other reforms, demonstrates the agency's commitment to fixing the exchange program. In addition, I note that the Service runs a less problem-ridden exchange program than does the Bureau of Land Management.

As the Service works to regain control over its exchange program, it may want to consider ways to improve appraisals, better incorporate the public in its process, and re-

duce the influence of third parties and project proponents. Some specific reforms the Service should evaluate include: the automatic release of all appraisal information to the public upon completion of review by the agency appraiser; limits on the ability of proponents to select appraisers; application of the NEPA and NHPA requirements in *Muckleshoot v. Forest Service* to all exchanges; incorporation of the agency's priorities for acquisition in the exchange process; greater notification of adjacent landowners; and the compilation of better system-wide financial and environmental information on all exchanges.

Thank you for your consideration. I look forward to your prompt response.

Sincerely,

GEORGE MILLER,
Member of Congress.

[From the Washington Post, July 13, 2000]
LAND EXCHANGE PROGRAM HURTS PUBLIC,
GAO SAYS

(By Deborah Nelson and Rick Weiss)

A federal program designed to improve national wilderness and recreation areas by trading expendable public land for desirable private property has shortchanged taxpayers by millions of dollars, government auditors reported yesterday.

Too often, the report concludes, developers, timber companies and other business interests benefit at the public's expense from the complex real estate deals that are supposed to help the government acquire important natural resources and clean up messy ownership boundaries.

The program is so riddled with problems and abuses that Congress should consider banning trades altogether, the report from the General Accounting Office concludes.

In one instance, for example, a private buyer obtained 70 acres of federal land for \$763,000, and then sold the parcel the same day for \$4.6 million. In another case, the same buyer acquired another 40 acres with a supposed value of \$504,000 and sold it the same day for \$1 million.

The report also highlighted a deal in which the Forest Service gave Weyerhaeuser Co., a valuable, mature Douglas fir forest in exchange for vast amounts of mostly clear-cut land near Seattle. A couple of the private parcels had been traded to Weyerhaeuser in an earlier deal, shaved clean of trees and then traded back to the Forest Service. The deal was only stopped after a local Indian tribe and an environmental group challenged it in federal court.

The stinging new assessment is the latest in a series of highly critical reviews of the program by government investigators, but it goes further than any other by suggesting a congressional ban.

Rep. George Miller (D-Calif.), who released the report, called on the Clinton administration to impose an immediate moratorium on land exchanges.

However, officials from the Forest Service and the Bureau of Land Management (BLM), the two most active land-trading agencies, say the program is too important to abandon, particularly because they do not have the money to buy land outright at a time of rising real estate prices.

Over the past decade, the Forest Service and BLM have traded 2 million acres of public land for 3 million acres of mostly private land in increasingly complex deals that sometimes have moved entire mountains from federal to private ownership.

Despite the net gain in land, the GAO found that the public was shorted in many of

the deals, because the government under-valued its own land, overvalued the private land or made trades that benefited the private parties rather than the public.

In addition, the BLM broke the law by selling land outright and keeping the money for its own purposes rather than returning it to the federal treasury as required, the report concludes.

Under federal land exchange regulations the private and public land in a trade must be of equal market value and the overall transaction must benefit the public and the environment.

But the GAO report found that the public often loses out, because the program pits government land managers with relatively little expertise in real estate against professional property brokers, developers and major corporations.

Agriculture Undersecretary Jim Lyons, who oversees the Forest Service, called the criticism "overstated" and the suggested trade ban "ludicrous."

The agency has improved appraisal procedures and training to address past problems, he said. The Forest Service needs the land exchange program as a tool to protect natural resources, he said.

Janine Blaeloch, director of the Seattle-based Western Land Exchange Project environmental group, which has successfully challenged the Weyerhaeuser deal and other trades across the country, said the GAO report didn't go far enough. A moratorium should be extended to land exchanges that are legislated by Congress at the request of private landowners; such trades can legally circumvent the environmental and public review process that the agencies are required to follow, she said.

"Once a land deal goes to Congress it's almost impossible to stop," Blaeloch said. "No public lands should be traded to private parties until we figure out how to solve this problem."

Among the land exchanges scrutinized for the GAO report was a deal between the BLM and a private company that is seeking to build the nation's largest garbage dump just outside the borders of Joshua Tree National Park in California.

To build the dump, which has faced repeated legal challenges over the past decade because of concerns about its environmental impact on the pristine desert park, the developers needed 3,500 acres of adjacent public land. The BLM traded that land to the developers for 10 parcels of private land, which were supposed to provide crucial habitat for the threatened desert tortoise, the endangered pup fish and other sensitive species.

But all 10 parcels are bisected by a rail line that will be used to carry 20,000 tons of garbage a day to the dump. Moreover, dump opponents have gathered evidence that at least some of the land traded by the developers to the public falls within a live bombing area of the federal Chocolate Mountain Guntery Range. Those and other aspects of the swap have spawned two separate lawsuits seeking to undo the deal.

In another deal, the government traded valuable federal land in the booming Las Vegas valley to developers for an assortment of private parcels, including the 46-acre Zephyr Cove estate on Lake Tahoe, Nev.

A combination of clever legal tactics on the part of the developers and clumsy federal oversight led the Forest Service to mistakenly sign away its rights to a 10,000-square-foot mansion and other buildings on the newly acquired land, government investigators found.

The developers that resold those buildings to another buyer that quickly fenced off the area with "private property" signs and proposed its own development plans that were to expand further onto the Forest Service land.

An investigation by the Agriculture Department found that the buyer of those buildings gave the developers \$300,000, exclusive use of the mansion for seven weeks of the year and two 20-year memberships to a Lake Tahoe golf club. The deal has been mired in expensive legal proceedings.

Other exchanges highlighted by the GAO include:

A trade between BLM and the Del Webb development company in Nevada in which the agency let the company use its own appraiser to set the value of 4,776 acres of federal land at \$43 million and removed an agency appraiser who protested. When the inspector general for the Department of Interior announced plans to review the exchange, BLM contracted for a new, independent appraisal that set the value \$9 million higher.

A deal in which the Forest Service acquired an environmentally desirable \$50 million parcel on Lake Tahoe in an exchange with developers who got large tracts of coveted federal land outside quickly growing Las Vegas. But when the developers failed to abide by two separate promises to find a buyer for unwanted buildings on the land, the Forest Service stood poised to get stuck with \$300,000-a-year maintenance costs, which it could not afford. Moreover, a USDA investigation found that the developers had misled the Forest Service about the nature of the water rights on the land, which were more restrictive than officials had been led to believe.

BLM spokesman Rem Hawes said efforts to improve appraisals and review of land exchanges are underway. "We do a lot of these every year," he said. "And we have some every year that are controversial. The vast majority don't receive a single appeal or protest. We do a lot of these that are quite positive." Hawes said.

[From the Wall Street Journal, July 13, 2000]

CONGRESSMAN SEEKS U.S. MORATORIUM ON
LAND EXCHANGE
(By Jim Carlton)

A California congressman has called for a moratorium on government land exchanges, following the release of a General Accounting Office report criticizing the program for trading valuable public properties for marginal private ones.

Democratic Rep. George Miller sent letters to Interior Secretary Bruce Babbitt and Agriculture Secretary Dan Glickman asking them to halt all exchanges by the Bureau of Land Management and the U.S. Forest Service pending further review.

BLM officials under Interior's authority acknowledged they had room for improve-

ment, and agreed to put their exchange process under closer review. "If we have a squeaky wheel, we want to make sure to get it fixed," said BLM spokesman Rem Hawes. Agriculture officials overseeing the Forest Service said that, while appraisal methods could be improved, most of their exchanges are conducted fairly. "What the GAO report is pointing out are exceptions to the rule," said Jim Lyons, an Agriculture undersecretary.

Rep. Miller, the senior Democrat on the House Resources Committee, had requested the report by the GAO, an investigative arm of Congress, following numerous reports in the media and elsewhere in recent years of problems with the land exchanges. Most of the exchanges have involved the government's vast land holdings in the West, where resources advocates have complained of pristine wildlands being traded away for less valuable private or locally owned tracts.

In Washington state, for instance, a federal appeals court last year blocked a proposed swap of private land that had been logged for untouched public forest, following an outcry by environmentalists. In Utah, a proposed land swap between the Bureau of Land Management and a state school trust is drawing fire from critics who say the transaction would open the entrance of Zion National Park to commercial and residential development.

The exchanges are supposed to enable the government to acquire environmentally valuable parcels of private land by disposing of federal lands deemed of marginal public value. However, the GAO report documented numerous exchanges in which federal land was traded for private land worth significantly less.

As a result, private parties in one Nevada exchange managed to sell for \$4.6 million land they had acquired from the BLM that same day for \$763,000, according to the report, the Forest Service acquired land in three Nevada exchanges that was overvalued by \$8.8 million, "because the appraised values were not supported by credible evidence."

"Land deals are being cut behind closed doors with tremendous special-interest pressure and limited public input," said Rep. Miller, who asked Mr. Babbitt and Mr. Glickman to put a hold on all exchanges until the problems are corrected.

The GAO report also found that the BLM has been illegally holding onto proceeds from land sales, rather than returning the money to the U.S. Treasury, as a pool to purchase additional lands without congressional approval. Rep. Miller called on Mr. Babbitt, who oversees the BLM, to cease those activities as well.

BLM officials said they knew of one such instance in which the agency had neglected to return to the Treasury interest from an escrow account. The BLM's Mr. Hawes said that money would be returned, and added that the agency is seeking to retain an auditor to determine whether escrow monies from other exchanges also need to be returned.